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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/822,069

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Jeffrey A. Kraemer

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EXAMINER

DOAN, TRANG T

ART UNIT

PAPER NUMBER

2131

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/822,069	Applicant(s) KRAEMER ET AL.	
	Examiner TRANG DOAN	Art Unit 2131	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-98 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-98 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-98 are pending for consideration.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 21, 41, 61 and 81 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 21, 41, 61 and 81, Examiner is not sure if the limitation “a reference monitor simulator” in line 1 and the limitation “a reference monitor” in line 2 refer to the same simulator or they are two separate simulators.

In addition to claims 1, 21, 41 and 61, Examiner does not know what Applicant means by the limitation “under a given set of circumstances” in line 5. Do these circumstances relate to the resource or the security rule? See *Morton Int'l, Inc. v. Cardinal Chem. Co.*, 5 F.3d 1464, 1470, 28 USPQ2d 1190, 1195 (Fed. Cir. 1993).

Regarding claim 81, Examiner does not know what Applicant means by the limitation “accessing the effectiveness of the security rule” in line 6. See *Morton Int'l, Inc. v. Cardinal Chem. Co.*, 5 F.3d 1464, 1470, 28 USPQ2d 1190, 1195 (Fed. Cir. 1993).

Appropriate correction is required.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 61-80 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claim 61, this claim recites a signal embodied in a transmission medium, the signal operable to provide a reference monitor simulator to recreate the operations performed by a first reference monitor. The signal recited in claim 61 (i.e., a form of energy) does not fall within one of the four statutory classes of an invention (method/process, article of manufacture, a composition of matter, or machine).

According to the *Interim Guidelines for Examination of Patent Applications*, claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. O'Reilly, 56 U.S. (15 How.) at 112-14.

The dependent claims are depended on the rejected base claim, and are rejected for the same rationales.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-98 are rejected under 35 U.S.C. 102(b) as being anticipated by Carter et al. (US 2003/0051026) (hereinafter Carter).

Regarding claim 1, 21, 41, 61 and 81, Carter discloses:

(A) defining at least one security rule specifying whether to allow or deny a request to access at least one resource under a given set of circumstances (Carter: See Abstract section and paragraphs 0168-0169, 0171, 0258, 0607 and 0802-0803: four sets of policies included in the Network Surveillance and Security System that govern access to databases (i.e., resource));

(B) supplying at least one request to access a resource (Carter: See paragraphs 0180, 0652 and 0755: A Security Reference Monitor is a hidden controller that makes references against the Security Reference Database whenever the Security Reference Monitor detects that the Security Authorization Database receives a request for access); and

(C) applying the at least one security rule in response to the at least one request to access a resource to determine whether to allow or prevent the at least one request (Carter: See paragraphs 0180, 0785 and 0797-0803: the watchdog system may use its own policies to permit or deny access, or it may pass the decision to other components of the Network Surveillance and Security System).

Regarding claim 2, 22, 42, 62 and 82, Carter further discloses providing at least one parameter defining the system environment in which the reference monitor executes (Carter: paragraphs 0211-0216).

Regarding claim 3, 23, 43, 63 and 83, Carter further discloses wherein the at least one parameter includes a time parameter which defines the passage of time perceived by the computer system (Carter: paragraphs 0147 and 0591).

Regarding claim 4, 24, 44, 64 and 84, Carter further discloses wherein the passage of time indicated by the time parameter is faster than the actual passage of time (Carter: paragraphs 0310).

Regarding claim 5, 25, 45, 65 and 85, Carter further discloses wherein the passage of time indicated by the time parameter enables the computer system to execute the reference monitor simulator in an accelerated manner (Carter: See Abstract section and paragraph 0306: the invention autonomously alters its security policies in response to ongoing events).

Regarding claim 6, 26, 46 and 66, Carter further discloses (D) assessing the effectiveness of the at least one security rule (Carter: paragraphs 0222 and 0260).

Regarding claim 7, 27, 47, 67 and 86, Carter further discloses wherein assessing the effectiveness of the security rule further comprises determining at least one of the number of improper access requests prevented and the number of proper access requests allowed (Carter: paragraphs 0260, 0606-0611 and 0802).

Regarding claim 8, 28, 48, 68 and 87, Carter further discloses wherein assessing the effectiveness of the security rule further comprises determining a rate of improper requests prevented (Carter: paragraphs 0403 and 0411-0413).

Regarding claim 9, 29, 49, 69 and 70, Carter further discloses wherein (B) further comprises an application program supplying the at least one request to access a resource (Carter: paragraph 0304).

Regarding claim 10, 30, 50 and 89, Carter further discloses wherein (B) further comprises capturing at least one request to access a resource before supplying the at least one request to access a resource (Carter: paragraphs 0172 and 0218).

Regarding claim 11, 31, 51, 71 and 90, Carter further discloses wherein a reference monitor performs the capture of the at least one request to access a resource (Carter: paragraphs 0700 and 0755).

Regarding claim 12, 32, 52, 72 and 91, Carter further discloses wherein the reference monitor which performs the capture of the at least one request to access a resource is the same type of reference monitor as the reference monitor whose operations are recreated by the reference monitor simulator (Carter: paragraphs 0168-0169, 0180, 0700 and 0755-0756).

Regarding claim 13, 33, 53, 73 and 92, Carter further discloses wherein the captured at least one request to access a resource is an improper request (Carter: paragraphs 0180 and 0222).

Regarding claim 14, 34, 54, 74 and 93, Carter further discloses wherein an improper request comprises a request issued by an application in response to one of a virus and a buffer overrun attack (Carter: paragraphs 0180, 0222 and 0674).

Regarding claim 15, 35, 55, 75 and 94, Carter further discloses wherein the captured at least one request is modified prior to supplying the at least one request to access a resource (Carter: paragraphs 0700 and 0755).

Regarding claim 16, 36, 56, 76 and 95, Carter further discloses wherein the modification is performed by a user (Carter: paragraph 0795).

Regarding claim 17, 37, 57 and 77, Carter further discloses wherein an electronic file system stores the at least one security rule, and wherein (D) further comprises the reference monitor simulator accessing the security rule in the electronic file system in response to receiving the at least one request to access a resource (Carter: paragraphs 0260, 0606-0611 and 0802).

Regarding claim 18, 38, 58, 78 and 96, Carter further discloses wherein the at least one parameter provided to the reference monitor simulator further includes at least one of a system clock, a wrapper function, and a timer event (Carter: paragraph 0880).

Regarding claim 19, 39, 59, 79 and 97, Carter further discloses (E) maintaining statistics on the operation of the reference monitor simulator (Carter: paragraphs 0271 and 0470).

Regarding claim 20, 40, 60, 80 and 98, Carter further discloses wherein the statistics include at least one of the number of requests per resource, number of total requests, type of request per resource, total of each type of request, number of queries, number of callbacks, number of requests allowed compared to number of requests expected, and number of requests prevented compared to number of prevented requests expected (Carter: paragraph 0470).

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Regarding claim 88, this claim has limitations that is similar to those of claim 1, thus it is rejected with the same rationale applied against claim 1 above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRANG DOAN whose telephone number is (571)272-0740. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Trang Doan/
Examiner, Art Unit 2131

/Ayaz R. Sheikh/

Supervisory Patent Examiner, Art Unit 2131

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